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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER			
APPL. NO.			PAPER NUMBER
0808			6
DATE MAILED			10/02/88

TO: H. BURDET, S. TATHAN  
FROM: THREE T RAIL  
C/O BIRMINGHAM  
BOSTON MA 02110

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

- ☐ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), 30 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948.                   |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.             | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____  |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-51 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☐ Claims \_\_\_\_\_ have been cancelled.

3. ☐ Claims \_\_\_\_\_ are allowed.

4. ☐ Claims \_\_\_\_\_ are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☒ Claims 1-51 are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable, ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_ has (have) been ☐ approved by the examiner, ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed on \_\_\_\_\_, has been ☐ approved, ☐ disapproved (see explanation).

12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received, ☐ not been received  
☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

**EXAMINER'S ACTION**

Art Unit: 3736

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-17, 20-30, 32-44, and 47-50, drawn to an interventional device, classified in class 607, subclass 88.
- II. Claims 18 and 19, drawn to a method for generating light inside the body, classified in class 604, subclass 20.
- III. Claims 31 and 51, drawn to a method for generating modular photonic energy, classified in class 600, subclass 101.
- IV. Claims 45 and 46, drawn to a method for performing spectral analysis, classified in class 600, subclass 475.

The inventions are distinct, each from the other because:

Inventions each of II, III, and VI and 1 are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the device could perform any of the methods.


Inventions II, III and IV are separate and distinct methods.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Art Unit: 3736

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication should be directed to David Shay at telephone number (703) 308-2215.



DAVID M. SHAY  
PRIMARY EXAMINER  
GROUP 330

D. Shay:lf  
September 29, 1998